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# **User's Guide for the Range-wide Programmatic Informal Consultation for Indiana Bat and Northern Long-eared Bat**

*Version 2.0, January 2016*



**Federal Highway Administration**

**Federal Railroad Administration**

**Federal Transit Administration**

**U.S. Fish and Wildlife Service**

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*This version of the User’s Guide reflects changes in response to input from users. The most current versions of supporting documents for this programmatic informal consultation, including the appendices listed above, are posted on the Service’s Region 3 website.*

## 1.0 Introduction

The following User's Guide provides guidance for the implementation of the range-wide programmatic informal consultation for the Indiana bat and northern long-eared bat (NLEB). This document is based on the Federal Highway Administration (FHWA), Federal Railroad Administration (FRA), and Federal Transit Authority (FTA) Range-wide Biological Assessment (BA) for Transportation Projects for the Indiana bat and the northern long-eared bat (NLEB) dated April 17, 2015 and the U.S. Fish and Wildlife Service (Service) concurrence letter dated April 20, 2015. The Service, FHWA, FRA, and FTA jointly developed this User's Guide to be instructional for both transportation agencies and Service field offices. We encourage feedback on the user's guide so that it can be updated and improved upon, as necessary.

This User's Guide provides:

- **Programmatic Scope and Effects Analysis Summary:** Actions appropriate for use of the range-wide programmatic informal consultation and key effects analysis decision points;
- **Standard Operating Procedure (SOP) for Site-Specific Project(s) Submission:** SOPs for project submission under the programmatic consultation for FHWA, FRA, FTA, and their respective non-federal representatives (henceforth "transportation agencies") and SOPs for the Service's review and tracking of the programmatic consultation;
- **Scoping Worksheet:** An *optional* worksheet to assist in the identification of potential project effects on either bat species and whether the project is within the scope of the range-wide programmatic informal consultation (Appendix A);
- **Project Submittal Form:** A form for transportation agencies to use to submit project-level information for may affect but not likely to adversely affect determinations to the appropriate Service field office in order to use the range-wide programmatic informal consultation (Appendix B);
- **Avoidance and Minimization Measures:** Summary of AMMs to avoid or minimize impacts to the point of insignificant/discountable for projects to be included in the range-wide programmatic informal consultation (Appendix C); and
- **Bridge/Structure Assessment Guidelines and Form:** Guidelines to determine if any bat species are using bridges/structures, and a form for documenting and submitting a site-specific bridge/structure assessment (Appendix D).

Any questions regarding the Range-wide Programmatic Informal Consultation and/or User's Guide should be addressed at the local FHWA/FRA/FTA/State Department of Transportation/Service Field Office level. If resolution cannot be achieved, contact:

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The Service encourage all parties who plan to use the range-wide programmatic informal consultation to review the BA if there are questions regarding interpretation. The BA contains detailed information on the types of proposed actions (PA), an analysis of the potential effects to the species and their resources, and support of effect determinations. The BA and implementation documents relevant to compliance with the range-wide programmatic informal consultation , as well as Service field office contacts are available at the Service's Region 3 website at: <http://www.fws.gov/midwest/endangered/section7/fhwa/index.html>.

The BA covers the full range of both bat species within the United States, which includes all or part of the following States (plus the District of Columbia): Alabama, Arkansas, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming.

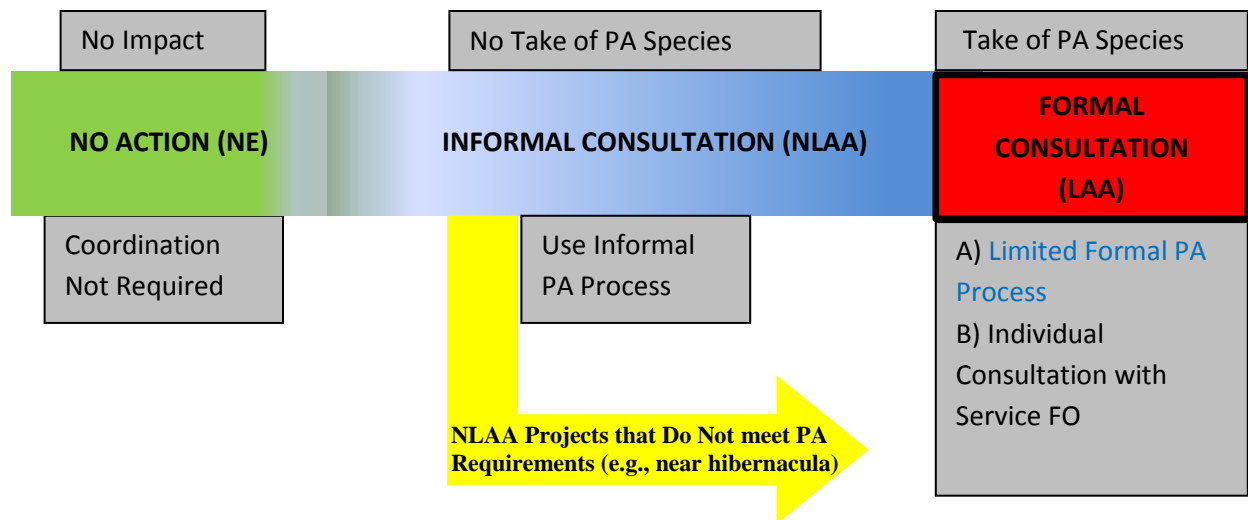
## 2.0 Programmatic Scope and Effects Analysis Summary

The range-wide programmatic informal consultation can be used for actions that may affect, but are not likely to adversely affect Indiana bats (or Indiana bat critical habitat) or NLEBs (Sections 2.3.1 and 2.3.2). This section summarizes actions that result in such an effect, and thus lie within the scope of the programmatic informal consultation. This section also summarizes projects that require additional coordination with the appropriate Service field office (Section 2.1) and projects that have no effect (Section 2.2) on either bat species, in which consultation with the Service is not required. **The scoping worksheet (Appendix A) is an additional tool to assist in determining potential project effects on both bat species, and whether it is appropriate to use the programmatic informal consultation.**

Note: In certain cases, the transportation agency or the Service field office may request additional up-front coordination to determine whether a project adheres to the scope of the range-wide programmatic informal consultation. This coordination could be initiated in one of two ways: 1) the transportation agency is uncertain whether or not a project is covered and contacts the appropriate Service field office, or 2) the transportation agency submits the project under the consultation, but the Service field office requests more information during the 14-day evaluation period of the submittal form.

There are also two outcomes for projects requiring additional coordination: 1) upon the acquisition of additional information (e.g., summer roosting, hibernacula, bridge roosting

activity, etc.) or the implementation of site-specific AMMs,<sup>1</sup> the project is determined to be NLAA and the transportation agency and Service proceed under the programmatic informal consultation, or 2) all adverse effects cannot be avoided and the project is determined to be “likely to adversely affect,” in which case separate consultation with the appropriate Service field office is necessary.



**Figure 1.** Project outcomes for Indiana bat and NLEB projects.

## 2.1 Actions Outside the Scope of the Range-wide Programmatic Informal Consultation

The Effects Analysis section of the Programmatic BA does not fully analyze all types of transportation activities described in the programmatic proposed action. However, FHWA, FRA, FTA, and the Service have made a preliminary determination that some proposed activities do not meet the threshold for inclusion in the range-wide programmatic informal consultation. These projects may or may not result in adverse effects to NLEBs and/or Indiana bats. Additional coordination with the appropriate Service field office is necessary to make a final effect determination on these projects. **Separate individual consultation with the appropriate Service field office may be required.**

The following categories of activities are NOT covered by the range-wide programmatic informal consultation

<sup>1</sup> If additional information is required or if site-specific AMMs are implemented in order to employ the programmatic informal consultation, the relevant transportation agency and Service field office are responsible for documenting those actions.

- New road/rail corridor
- Activities impacting suitable forest habitat for bats > 100 feet from existing road/rail surfaces *at any time of year* (unless summer bat Presence/Probable Absence (P/A) surveys are negative)
- Projects that raise the road profile above the tree canopy within 1,000 feet of known summer habitat (based on documented roosts and/or captures) *at any time of year*
- Projects within 0.5 miles of hibernacula (including Indiana bat critical habitat) that 1) include construction activities extending outside the existing road/rail surface or 2) include construction activities wholly within the existing road/rail service but include percussive or other activities that increase noise above existing traffic/background levels
- Projects that clear suitable forest habitat at any distance from a road during the active season<sup>2</sup> for bats (unless summer bat P/A surveys are negative)
- Projects that remove documented roosts or foraging areas/travel corridors (based on radio telemetry) *at any time of year* or remove trees within 0.25 miles of documented roosts *at any time of year*
- Bridge Projects *at any time of year*:
  - (a) that remove a bridge with bat colonies known to be roosting under the bridge
  - (b) that modify a bridge with bat colonies known to be roosting under the bridge so that it is no longer suitable for roosting
- A bridge or structure maintenance activity that is likely to disturb bats while bats are documented to be present

## 2.2 Actions That Will Have No Effect on Bats and/or Indiana Bat Critical Habitat

Projects entirely outside the range of either the Indiana bat or NLEB, or projects with no suitable habitat for either species within the project area will result in “no effect” to both species.

The following categories of activities result in “no effect” with respect to Indiana bat and NLEB:

- Projects outside the species’ range<sup>3</sup>
- Projects inside the range but no suitable summer habitat (e.g., high-density urban areas or non-forested areas)<sup>4</sup>
- Activities (anywhere, including within 0.5 miles of hibernacula) conducted completely within existing road/rail surface **and do not involve** percussive or other activities that increase noise above existing traffic/background levels, such as blasting and use of pile drivers, rock drills, or hoe rams

<sup>2</sup> Coordinate with the local Service field office for active season dates.

<sup>3</sup> See <http://ecos.fws.gov/ipac/>

<sup>4</sup> Refer to <http://www.fws.gov/midwest/endangered/mammals/inba/inbasummersurveyguidance.html>

- Maintenance, alteration, or demolition of bridges/structures **if the results of a bridge assessment indicates no signs of bats**<sup>5</sup>
- Activities (anywhere, including within 0.5 mile of hibernacula) that do not involve construction, such as bridge assessments, property inspections, development of planning and technical studies, property sales, property easements, and equipment purchases.

**For activities identified above that result in “no effect” to the Indiana bat or NLEB, the transportation agency documents “no effect” on the project submittal form (Appendix B) for their files. No coordination with the Service is required.**

### 2.3 Actions That May Affect Bats

For projects within the range of either the Indiana bat or NLEB in which suitable habitat is present, and no bat surveys have been conducted, the transportation agency will assume presence of the appropriate species. **This assumption of presence should be based upon the presence of suitable habitat and the capability of bats to occupy it because of their mobility.**

In such situation, the following transportation activities “may affect” either bat species:

- Tree removal (if suitable habitat);
- Increased noise above existing traffic/background levels through percussive activities such as blasting and use of pile drivers, rock drills, or hoe rams;
- Increased lighting;
- Smoke/heat associated with burning brush piles;
- Impacts to water/wetlands (where suitable habitat is present); and
- Bridge or structure maintenance or replacement at sites with bat activity.

#### 2.3.1 Actions NLAA

Projects occurring near suitable habitat (e.g., non-forested area that Indiana bat or NLEB would typically cross between patches of suitable habitat) or within suitable habitat may affect the Indiana bat or NLEB. Some of these projects may have a **discountable or insignificant effect** on either bat species and thus are considered NLAA actions.

Such activities that are NLAA include:

- Projects inside the range but negative bat presence/absence (P/A) surveys<sup>6</sup>

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<sup>5</sup> We understand that only bridges with certain structural elements provide habitat for bats. Currently we do not have sufficient data to fully characterize bridges that bats use for roosting. With additional data we may ultimately be able to rule out bridges which lack particular characteristics amenable to roosting. However, until further data is gathered, we will use the evidence of bats to make the initial determination of suitable habitat. Refer to [Appendix D](#) for more information on bridge/structure assessment guidelines.

<sup>6</sup> Refer to <http://www.fws.gov/midwest/endangered/mammals/inba/inbasummersurveyguidance.html>



- Activities conducted completely within existing road/rail surface **involving** percussive activities such as blasting and use of pile drivers, rock drills, or hoe rams
- Activities in areas that contain suitable forested habitat but that do not remove or alter trees (e.g., landscaping rest areas, mowing, brush removal, sign or guiderail replacement, stormwater management)
- Slash pile burning
- Wetland or stream protection activities associated with wetland mitigation that do not clear suitable habitat.

**For activities identified above that result in “may effect, NLAA” to the Indiana bat or NLEB, the transportation agency will complete and email the project submittal form (Appendix B) to the lead Service field office, which will observe the 14-day evaluation period for the submittal form.**

### 2.3.2 Actions NLAA with AMMs

As identified above, transportation projects occurring near or within suitable habitat “may affect” the Indiana bat or NLEB. In many such circumstances, the implementation of AMMs (Appendix C) is required to result in avoidance or minimization of impacts to an extent in which the project is NLAA either species.

Transportation projects that involve the features listed below, as appropriate, and implement all applicable AMMs<sup>7</sup> are not likely to adversely affect Indiana bats or NLEBs:

- Tree removal that:
  - Occurs outside the active season<sup>8</sup> (i.e., winter) as determined by appropriate Service field office;
  - Occurs within 100 feet (30.5 m) of existing road surfaces;
  - Is clearly demarcated; and
  - Removes documented roosts or foraging areas/travel corridors (based on radio telemetry) *at any time of year* or trees within 0.25 miles of documented roosts *at any time of year*
- Structure or bridge maintenance outside the active season that:
  - Includes any applicable lighting minimization measures; and
  - Does not alter roosting potential
- Structure maintenance during the active season that:
  - Does not bother roosting bats in any way
- Bridge maintenance during the active season that:
  - Does not bother roosting bats in any way

<sup>7</sup> <sup>6</sup>An example of AMMs that would not be applicable would be wetland AMMs when no wetlands occur within the action area. If applicable, AMMs must be implemented for a project to fall under the range-wide programmatic informal consultation.

<sup>8</sup> Coordinate with the local Service field office for active season dates.



- above deck work that does not drill down to the underside of deck or include percussives (vibration) or noise levels above general traffic
- below deck work that is conducted away from roosting bats and does not involve percussives or noise level above general traffic (e.g., wing-wall work, abutment, beam end, scour, or pier repair)
- Lighting that does not increase illumination above ambient conditions and that incorporates full cut-off, downward facing lights directed away from forested areas

**For activities identified above that result in “may effect, NLAA” to the Indiana bat or NLEB with the implementation of all applicable AMMs , the transportation agency will complete and email the project submittal form (Appendix B) to the lead Service field office, which will observe the 14-day evaluation period for the submittal form.**

### **3.0 Standard Operating Procedure for Site-Specific Project(s) Submission**

Please use the following procedure to submit site specific transportation project(s) for inclusion in the FHWA/FRA/FTA Range-wide Programmatic Informal Consultation for Indiana bat and/or NLEB, and to record site-specific information.

#### **3.1 Process for Transportation Agencies**

##### **3.1.1 Step 1 - Begin Notification/Submittal Process**

To begin this step, the applying transportation agency will go to the Information for Planning and Conservation (IPaC) website at <http://ecos.fws.gov/ipac/> and follow these steps:<sup>9</sup>

- Enter project location and define project action area
- Request an official species list
- Enter project information (name, description, classification/type, etc.)
- Enter requesting agency name and contact information
- Check the box to verify your project and submit request.

After an initial e-mail confirmation that the request has been submitted, the transportation agency contact will receive a follow-up email with an attached official species list, an attached GIS file of their project location, the appropriate Service field office contact(s) information, and the consultation code(s) associated with the species list. Should a project span multiple Service field office jurisdictions, the transportation agency will be provided with more than one Service field office contact and consultation code. For transportation actions that cross jurisdictional

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<sup>9</sup> Transportation agencies may coordinate with the appropriate Service Field Office to develop a separate process for requesting a site-specific project be included in the range-wide programmatic informal consultation. However, the project Submittal Form must be provided.

boundaries (e.g., from one State DOT to another), one transportation entity should take the lead in implementing this process and determining whether the action, as a whole, meets the requirements for inclusion in the range-wide programmatic informal consultation.

### 3.1.2 Step 2 – Determine Adherence to Scope and Submit Form

The transportation agency will determine whether or not the proposed project adheres to the scope and criteria of the range-wide programmatic informal BA (optional use of the scoping worksheet in Appendix A may be used to make this determination). If so, the transportation agency shall submit a project submittal form (See Appendix B) to the email addresses noted within the Service field office contact information.

## 3.2 Process for Lead Service Field office

Upon receiving a project submittal form from a transportation agency, the lead Service field office will update the project(s) TAILS Activity in the Environmental Conservation Online System (ECOS) Tracking and Integrated Logging System (TAILS) **using the consultation code(s)** from the project submittal form.<sup>10</sup> Each Service field office will follow their office's data entry procedures for ECOS-TAILS as well as the processes described below. The following process is required to enter additional site-specific information and "position/associate" the Activity in the appropriate Programmatic Bundle.

- Go to ECOS-TAILS at <https://ecos.fws.gov/tails>
- Perform a Section 7 Consultation search and navigate to the TAILS Activity associated with the consultation code provided in the Project Submittal Form.
- Go to Edit – Core information<sup>11</sup>
  - Consultation Type – will be selected via "Add Event" as described below (leave blank under Core Information)
  - Species – select all species requiring consultation for the project(s)
  - Staff Lead – select individual (identify additional staff within the "Staff" field)
  - Lead Agency – Note that this refers to the Federal governmental lead action agency initiating consultation; change to/select FHWA or FRA or FTA under DEPT OF TRANSPORTATION as appropriate
  - Supporting Agency – this is an optional field and refers to Federal or non-Federal agencies (other than the Lead Agency) involved in the activity; for these purposes, the Supporting Agency is the requesting transportation agency listed on the Project Submittal Form

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<sup>10</sup> If a separate process other than IPaC is used by the transportation agency, the lead Service field office (upon receiving the Project Submittal Form) will create a Section 7 Consultation Activity in ECOS-TAILS for the specific project(s) following their office's data entry procedures and the process described above.

<sup>11</sup> Information entered into IPaC is transferred to ECOS-TAILS as a Species List Activity, in which "project name" translates to the TAILS Activity Title, the "project description" translates to the TAILS Activity Description, and the "project classification/type" translates to the TAILS Action/Work Type.

For project(s) affecting **only** the Ibat and/or NLEB, complete the following; otherwise follow office data entry procedures for start date, due date, and conclusion date.

- Consultation Complexity – select Programmatic Project-Level
  - Start Date – reset to date the project submittal form was received
  - Due Date – enter “14” in the “Standard Days until Due” field and click on the “Compute” button (this will calculate the Due Date as being 14 calendar days out from the Start Date)
  - Conclusion Date – reset to date the Service completed optional review
  - Click SAVE
- Go to Edit – Bundles
  - Search for Bundle Code 09E00000-2015-B-0002 titled “FHWA and FRA Indiana bat/Northern long-eared bat Programmatic Informal Consultation”
  - Select “Add” to position/associate the Activity to the selected Bundle
- Go to Edit – Biological Conclusion
  - Biological Conclusions By Species – select effects determination/consultation type for each species
  - Click SAVE
- Go to Events – Add Event
  - Event Date – reset to date the Project Submittal Form was received
  - Type – select “Change in Consultation Type”
  - New Consultation Type (activated only with above Event Type) – select “Informal Consultation” if all species require informal consultation
  - New Consultation Type (activated only with above Event Type) – select “Formal Consultation” if any species require formal consultation (even if other species require informal consultation, including Ibat and NLEB)
  - Description – type “April 2015 FHWA/FRA/FTA range-wide programmatic informal consultation for Ibat and NLEB”
  - Staff – enter name of person who is creating the Event
  - Select “Create” to complete the Event
- Go to Events – Add Event
  - Event Date – reset to date the Project Submittal Form was received
  - Type – select “Additional Project Information Received”
  - Description – include the following information in your Event Description:
    - Identify the affected resource/habitat type (e.g., tree, bridge, other non-tree roosting structure, etc.) and acres of tree habitat removed, if applicable.
  - Staff – select who is creating the Event
  - Electronic File – upload the completed Project Submittal Form received from the transportation agency; do not select “Available Beyond FWS”
  - File Categories – select “Event General”
  - Select “Create” to complete the Event

## **Appendix A – Scoping Worksheet (Optional Use)**

The scoping worksheet is an *optional* worksheet that may be used to help determine what type of an effect a project may have on either bat species and whether the project is within the scope of the range-wide programmatic informal consultation. The most current scoping worksheet is available at the Service's Region 3 website:

<http://www.fws.gov/midwest/endangered/section7/fhwa/index.html>.

## **Appendix B - Project Submittal Form for FHWA, FRA, and Transportation Agencies**

In order to use the range-wide programmatic informal consultation, project-level information shall be provided to the appropriate Service field office for “may affect, but not likely to adversely affect” determinations. The most current project submittal form is available at the Service's Region 3 website: <http://www.fws.gov/midwest/endangered/section7/fhwa/index.html>.

## **Appendix C - Avoidance and Minimization Measures**

The most current summary of AMMs necessary to avoid or minimize impacts to the point of being insignificant/discountable, and thus required for projects to be covered by the range-wide programmatic informal consultation is available at the Service's Region 3 website:

<http://www.fws.gov/midwest/endangered/section7/fhwa/index.html>.

## **Appendix D – Bridge/Structure Assessment Guidelines and Form**

The guidelines in this document describe favorable characteristics of bridges/structures that may provide habitat for many bat species, and preliminary indicators intended to determine if any bat species are likely using bridges/structures. An assessment form is also included for use in documenting a site-specific bridge/structure. The most current bridge/structure assessment guidelines and form are available at the Service's Region 3 website:

<http://www.fws.gov/midwest/endangered/section7/fhwa/index.html>.